

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-x

BENJAMIN BERNSTEIN, et al.,

Plaintiffs,

-against-

06 Civ. 2482 (LAK)

DONN POLAND, etc., et al..

Defendants.

-x

**ORDER**

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LEWIS A. KAPLAN, *District Judge*.

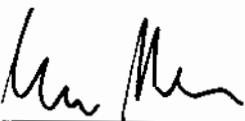
Plaintiff Benjamin Bernstein, at the relevant time a 12 year old summer camper, allegedly was injured when a bus upon which he was a passenger rolled over in Maine. He sues the KFAR Camping Co., the camp; Donn Poland, owner of the bus; and Debra R. Mosier, the driver. Mr. Poland and Ms. Mosier move to dismiss for lack of personal jurisdiction or, in the alternative, to transfer the action to the District of Maine pursuant to 28 U.S.C. §§ 1404(a) and 1406(a).

It is perfectly clear at the outset that defendants Poland and Mosier are not subject to personal jurisdiction here. Neither is present in New York and thus within the scope of N.Y. CPLR § 301. Nor has plaintiff pled facts or adduced evidence sufficient to satisfy the New York long arm statute, N.Y. CPLR § 302, with respect to those defendants.

Accordingly, the motion of defendants Poland and Mosier to dismiss for lack of personal jurisdiction is granted. As this terminates the action as to them and subjecting them to the continuing uncertainty of a non-final adjudication would be inequitable, the Court hereby certifies pursuant to Fed. R. Civ. P. 54(b) that there is no just reason for delay directs the Clerk to enter final judgment of dismissal of the complaint as against them.

SO ORDERED.

Dated: July 26, 2006

  
Lewis A. Kaplan  
United States District Judge